

Retirement Villages Amendment Bill 2024

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Western Australia

LEGISLATIVE ASSEMBLY

Retirement Villages Amendment Bill 2024

A Bill for

An Act to amend the *Retirement Villages Act 1992* and to make related and consequential amendments to other Acts.

The Parliament of Western Australia enacts as follows:

1
2
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11

Part 1 — Preliminary

1. Short title

This is the *Retirement Villages Amendment Act 2024*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) Part 2 (but only Division 2) and Part 4 — on the day after assent day;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

1 **Part 2 — Retirement Villages Act 1992 amended**

2 **Division 1 — Main amendments**

3 **3. Act amended**

4 This Division amends the *Retirement Villages Act 1992*.

5 **4. Section 3 amended**

6 (1) In section 3(1) delete the definition of *premium*.

7 (2) In section 3(1) insert in alphabetical order:

8
9 *administer* a retirement village includes to manage or
10 operate the retirement village;

11 *amenity* includes facility;

12 *authorised deposit-taking institution* has the meaning
13 given in the *Banking Act 1959* (Commonwealth)
14 section 5(1);

15 *community arrangements statement* means a
16 statement under section 14B;

17 *exit entitlement* means any amount of money that is,
18 under a residence contract, payable by an operator in
19 connection with a resident permanently vacating
20 residential premises in a retirement village;

21 *ingoing contribution* —

22 (a) means a payment, however described, made by
23 or on behalf of a person in consideration for, or
24 in contemplation of, the person becoming a
25 resident in a retirement village; but

26 (b) does not include —

27 (i) a recurrent charge; or

28 (ii) a payment of a prescribed kind;

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Part 2 Retirement Villages Act 1992 amended

Division 1 Main amendments

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1 *judicial member* has the meaning given in the *State*
2 *Administrative Tribunal Act 2004* section 3(1);

3 *permanently vacated* has the meaning given in
4 subsection (1A);

5 *prospective resident information statement* means a
6 statement under section 14C;

7 *special resolution* means a resolution passed at a
8 meeting of the residents of a retirement village in
9 accordance with section 41G;

10

11 (3) In section 3(1) in the definition of *retirement village scheme*
12 delete “resident or prospective resident of residential premises
13 pays a premium in consideration for, or in contemplation of,
14 admission as a resident under the scheme;” and insert:

15

16 person pays an ingoing contribution;

17

18 (4) In section 3(1) in the definition of *service contract* delete the
19 passage that begins with “of — ” and continues to the end of the
20 definition and insert:

21

22 of services and amenities in the retirement village;

23

24 (5) After section 3(1) insert:

25

26 (1A) Residential premises in a retirement village are
27 *permanently vacated* —

28 (a) if the residence contract with the operator of the
29 retirement village with respect to the premises

1 requires notice of an intention to vacate the
2 premises — the later of —
3 (i) 28 days after the day on which the
4 operator is given the notice in writing
5 (regardless of the period of notice
6 required by the contract); or
7 (ii) when vacant possession of the premises
8 is given to the operator;
9 or
10 (b) if the residence contract with the operator of the
11 retirement village with respect to the premises
12 does not require notice of an intention to vacate
13 the premises — when vacant possession of the
14 premises is given to the operator.
15

16 **5. Section 5 amended**

17 Delete section 5(2) and insert:

- 18
19 (2) This Act does not apply in relation to residential
20 premises in a retirement village that are used to
21 provide —
22 (a) residential care as defined in the *Aged Care*
23 *Act 1997* (Commonwealth) section 41-3; or
24 (b) aged care of a prescribed kind.
25

26 **6. Section 6 amended**

27 In section 6(1) delete “subsection (2) and without affecting the
28 operation of sections 23(4) and 24(6),” and insert:

29
30 subsection (2),
31

Retirement Villages Amendment Bill 2024

Part 2 Retirement Villages Act 1992 amended

Division 1 Main amendments

s. 7

1 **7. Section 8 amended**

2 After section 8(1)(a) insert:

3

4 (aa) to keep a register of retirement villages;

5

6 **8. Section 13 amended**

7 (1) Delete section 13(2)(a) and insert:

8

9 (a) a community arrangements statement; and

10 (aa) a prospective resident information statement;

11 and

12

13 (2) After section 13(2) insert:

14

15 (2A) A paragraph of subsection (2) does not apply in
16 relation to a subsequent residence contract between the
17 person and the owner if there have been no material
18 changes to the document mentioned in the paragraph
19 since the owner last gave the document to that person.

20

21 (3) Delete section 13(4) and (5) and insert:

22

23 (4) A residence contract entered into by a person is taken
24 to include a warranty on the part of the owner of the
25 correctness of the information contained in the most
26 recent community arrangements statement and
27 prospective resident information statement given to
28 that person.

29 (4AA) The warranty —

30 (a) is subject to any written alteration, made by the
31 owner with the consent of the prospective

- 1 resident on or before the signing of the
2 residence contract by the owner, to the most
3 recent community arrangements statement or
4 prospective resident information statement
5 given to that person; and
6 (b) prevails over any inconsistent contractual term.
- 7 (5) A person, including an owner, must not, without the
8 approval of the Commissioner —
- 9 (a) make a representation to a person that is
10 inconsistent with information contained in the
11 most recent community arrangements statement
12 or prospective resident information statement
13 given to that person; or
- 14 (b) give a person a community arrangements
15 statement or prospective resident information
16 statement that contains information that is
17 inconsistent with a representation made by the
18 owner to that person.

19 Penalty for this subsection: a fine of \$20 000.
20

21 **9. Section 13A inserted**

22 After section 13 insert:
23

24 **13A. Residence contracts enforceable against current**
25 **operators**

26 A residence contract entered into with an operator, or a
27 former operator, of a retirement village may be
28 enforced against any operator, for the time being, of the
29 retirement village as if the residence contract had been
30 entered into by that operator.
31

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Part 2 Retirement Villages Act 1992 amended

Division 1 Main amendments

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1 **10. Section 14A amended**

2 (1) Before section 14A(1) insert:

3

4 (1A) In this section —

5 ***village contract*** means —

6 (a) a residence contract; or

7 (b) a service contract.

8

9 (2) In section 14A(1) to (4) delete “residence” (each occurrence)
10 and insert:

11

12 village

13

14 (3) In section 14A(2) before “a prospective resident” insert:

15

16 a resident or

17

18 Note: The heading to amended section 14A is to read:

19 **Residence contracts and service contracts to comply with**
20 **prescribed requirements**

21 **11. Sections 14B to 14D inserted**

22 After section 14A insert:

23

24 **14B. Community arrangements statements**

25 (1) The purpose of a community arrangements statement is
26 to provide information about the services and
27 amenities, and the residential premises, that are

- 1 provided, or made available, to residents of a
2 retirement village (*community arrangements*).
- 3 (2) A community arrangements statement must —
4 (a) be in the approved form; and
5 (b) contain the prescribed information.
- 6 (3) The operator of a retirement village must, within
7 14 days after the day on which the retirement village is
8 established, and within 14 days after the day on which
9 there is any change in the community arrangements of
10 the retirement village, ensure a current community
11 arrangements statement is continuously available to the
12 public —
13 (a) on a website of the operator or of the retirement
14 village; or
15 (b) if neither the operator nor the retirement village
16 has a website — in the prescribed way.
- 17 Penalty for this subsection: a fine of \$20 000.
- 18 (4) The operator must give a person the current community
19 arrangements statement in the prescribed way within
20 7 days after the day on which the person asks for a
21 community arrangements statement.
- 22 Penalty for this subsection: a fine of \$20 000.
- 23 (5) Subsection (4) does not apply if the operator believes
24 on reasonable grounds that the person has not asked for
25 the community arrangements statement for the purpose
26 of considering or deciding whether the person is or
27 might be interested in becoming a resident of the
28 retirement village.

- 1 **14C. Prospective resident information statements**
- 2 (1) The purpose of a prospective resident information
- 3 statement is to give a person a summary of —
- 4 (a) the estimated costs of the person —
- 5 (i) entering into occupation of residential
- 6 premises in a retirement village; and
- 7 (ii) living in the retirement village; and
- 8 (iii) permanently vacating the residential
- 9 premises;
- 10 and
- 11 (b) the rights and obligations of a resident under
- 12 this Act.
- 13 (2) A prospective resident information statement must —
- 14 (a) be in the approved form; and
- 15 (b) contain the prescribed information.
- 16 (3) The operator of a retirement village must give a person
- 17 a prospective resident information statement in the
- 18 prescribed way —
- 19 (a) if the operator, within 7 days after the day on
- 20 which the person asks for the statement,
- 21 requests, in writing, information from the
- 22 person reasonably necessary to prepare the
- 23 statement — within 7 days after the day on
- 24 which the person gives the operator the
- 25 information; or
- 26 (b) otherwise, within 7 days after the day on which
- 27 the person asks for the statement.
- 28 Penalty for this subsection: a fine of \$20 000.

1 (4) Subsection (3) does not apply if the operator believes
2 on reasonable grounds that the person has not asked for
3 the prospective resident information statement for the
4 purpose of considering or deciding whether the person
5 is or might be interested in becoming a resident of the
6 retirement village.

7 **14D. Property condition report at start and end of**
8 **occupation of residential premises**

9 (1) An operator must, within 7 days after the day on which
10 a resident enters into occupation of residential premises
11 under a residence contract —

12 (a) prepare a report describing the condition of the
13 premises; and

14 (b) provide 2 copies of the report to the resident.

15 Penalty for this subsection: a fine of \$5 000.

16 (2) A resident given copies of a report under
17 subsection (1)(b) who disagrees with any information
18 in the report must, within 7 days after the day on which
19 the resident receives the copies —

20 (a) mark a copy in a manner that shows the
21 information with which the resident disagrees;
22 and

23 (b) give the copy back to the operator.

24 (3) If the resident does not give a copy of the report back
25 to the operator under subsection (2), the resident is
26 taken to accept the contents of the report as a true and
27 accurate description of the condition of the residential
28 premises.

29 (4) An operator must, as soon as practicable, and in any
30 event within 14 days, after the day on which a resident

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- 1 permanently vacates residential premises in a
2 retirement village —
- 3 (a) conduct an inspection of the residential
4 premises; and
- 5 (b) prepare a final report describing the condition
6 of the premises; and
- 7 (c) provide a copy of the report to the resident.
- 8 Penalty for this subsection: a fine of \$5 000.
- 9 (5) The resident must be given a reasonable opportunity to
10 be present at the inspection conducted under
11 subsection (4)(a).
- 12 (6) The regulations may prescribe information that must be
13 included in a property condition report under
14 subsection (1) or (4).
15

16 **12. Section 14 amended**

17 After section 14(2) insert:
18

- 19 (3) This section applies despite, and does not limit any
20 other entitlement to rescind a contract under, the *Sale*
21 *of Land Act 1970*.
22

23 **13. Section 15 amended**

24 In section 15(2) delete “repayment of a premium or” and insert:
25

26 payment of an exit entitlement or repayment of
27

1 **14. Section 15A inserted**

2 After section 15 insert:

3

4 **15A. Amendment of memorial**

- 5 (1) An owner of a lot may apply to the Tribunal for, and
6 the Tribunal may make, an order directing the Registrar
7 of Titles to amend the Register under the *Transfer of*
8 *Land Act 1893* so that a memorial registered under
9 section 15 is no longer registered against the lot.
- 10 (2) The application may (but need not) be made and heard
11 concurrently with an application for an order under
12 Part 3D.
- 13 (3) The Tribunal may make the order only if satisfied
14 that —
- 15 (a) the lot is not, or from a specified date will not
16 be, used for the purposes of a retirement
17 village; and
- 18 (b) the value of the land used for the purposes of
19 the retirement village, other than the lot, is
20 sufficient to secure the right of each resident or
21 former resident of the retirement village to the
22 payment of any exit entitlement.
- 23 (4) The Tribunal may amend an order made under this
24 section.
- 25 (5) An order under this section takes effect on the later of
26 the following —
- 27 (a) the day specified in the order;
- 28 (b) the day when the order is lodged for
29 registration with the Registrar of Titles —
- 30 (i) in the form approved by the Registrar of
31 Titles; and

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- 1 (ii) accompanied by the fee prescribed
2 under the *Transfer of Land Act 1893*.
- 3 (6) The Tribunal's powers under this section are
4 exercisable only by —
- 5 (a) a judicial member; or
6 (b) the Tribunal constituted by a judicial member
7 and other members.
8

9 **15. Section 17 amended**

- 10 (1) After section 17(1)(d) insert:
11
- 12 (da) without limiting paragraph (d), the residence
13 contract is terminated by the Tribunal in
14 connection with an order made under
15 section 22; or
16
- 17 (2) In section 17(2) delete “(c) and (d)” and insert:
18
- 19 (c), (d) and (da)
20
- 21 (3) After section 17(2) insert:
22
- 23 (2A) This section does not apply in relation to a residence
24 contract that creates or gives rise to a right to occupy
25 residential premises in a retirement village —
- 26 (a) for a fixed term of 12 months or less; or
27 (b) on the basis of a periodic tenancy (other than a
28 periodic tenancy following a fixed term greater
29 than 12 months).
30

1 **16. Section 18 amended**

2 (1) Before section 18(1) insert:

3

4 (1A) In this section —

5 *operator* includes a developer, or any other person,
6 involved in the development or construction of a
7 retirement village.

8

9 (2) In section 18(1):

10 (a) delete “Subject to subsection (2), a premium paid to the”
11 and insert:

12

13 An ingoing contribution paid to an

14

15 (b) in paragraph (a) delete “whose behalf the premium” and
16 insert:

17

18 behalf of whom the ingoing contribution

19

20 (3) Delete section 18(2A) to (3) and insert:

21

22 (2A) An operator commits an offence if —

23 (a) an ingoing contribution is paid to the operator;
24 and

25 (b) the ingoing contribution is not held in trust or
26 invested as required by subsection (1).

27 Penalty for this subsection: a fine of \$20 000.

28

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Part 2 Retirement Villages Act 1992 amended

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s. 16

- 1 (4) In section 18(4):
2 (a) delete “prospective resident” (1st occurrence) and insert:
3
4 person by or on behalf of whom the ingoing contribution
5 was paid
6
7 (b) delete “disposition of the premium” and insert:
8
9 disposition of the ingoing contribution
10
11 (c) in paragraph (a) delete “prospective resident’s” and
12 insert:
13
14 person’s
15
16 (d) in paragraph (a) delete “premium must be paid to the
17 prospective resident;” and insert:
18
19 ingoing contribution must be paid to the person;
20
- 21 (5) Delete section 18(5) and insert:
22
- 23 (5) An operator commits an offence if —
24 (a) a question affecting entitlement to or
25 disposition of the ingoing contribution is
26 required by subsection (4) to be determined by
27 reference to the residence contract and the
28 operator fails to act in accordance with that
29 requirement; or

- 1 (b) interest and accretions arising from investment
2 of the ingoing contribution are required by
3 subsection (4)(a) to be paid to the person by or
4 on behalf of whom the ingoing contribution
5 was paid and the interest and accretions are not
6 paid accordingly.

7 Penalty for this subsection: a fine of \$20 000.

8

9 Note: The heading to amended section 18 is to read:

10 **Ingoing contributions**

11 **17. Section 19 amended**

12 (1) Delete section 19(1) and insert:

13

- 14 (1) A service contract entered into with an operator, or a
15 former operator, of a retirement village may be
16 enforced against any operator, for the time being, of the
17 retirement village as if the service contract had been
18 entered into by that operator.

19

20 (2) In section 19(2) delete “a service to” and insert:

21

22 services or amenities to

23

24 (3) Delete section 19(3) to (5).

25 (4) Delete section 19(6)(a) and insert:

26

- 27 (a) the owner is a party to a contract under which
28 an exit entitlement is payable in relation to the
29 resident; or

30

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Part 2 Retirement Villages Act 1992 amended

Division 1 Main amendments

s. 18

1 (5) Delete section 19(7).

2 Note: The heading to amended section 19 is to read:

3 **Service contracts**

4 **18. Section 20 amended**

5 (1) In section 20(1) delete “repayment of a premium, or part of a
6 premium, under section 19” and insert:

7

8 payment of an exit entitlement

9

10 (2) Delete section 20(3) and (4) and insert:

11

12 (3) The charge has priority over all mortgages, charges and
13 encumbrances created or arising in relation to the land
14 after registration of the relevant memorial under
15 section 15.

16

17 **19. Section 21 amended**

18 (1) In section 21(1) delete “repayment of a premium or part of a
19 premium” and insert:

20

21 payment of an exit entitlement

22

23 (2) In section 21(2)(a) delete “recovery of the resident’s premium
24 or part of a premium,” and insert:

25

26 payment of the exit entitlement,

27

- 1 (3) In section 21(3)(d):
2 (a) delete “refundable premium or part of a premium” and
3 insert:
4
5 exit entitlement
6
7 (b) delete “premiums or parts of premiums” and insert:
8
9 exit entitlements
10

11 **20. Sections 21A and 21B inserted**

12 After section 21 insert:
13

14 **21A. Rules of conduct for operators and residents**

- 15 (1) In this section —
16 *operator* includes any employee, agent or other person
17 acting on behalf of an operator.
18 (2) The regulations may prescribe the following —
19 (a) rules of conduct for operators and residents of
20 retirement villages;
21 (b) requirements for operators regarding
22 professionalism, training, competencies,
23 performance and behaviour in connection with
24 the administration of retirement villages;
25 (c) consequences of (including remedies for)
26 contraventions of regulations under
27 paragraph (a) or (b).

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- 1 (3) Without limiting subsection (2)(a) and (b), the
2 regulations may prescribe requirements relating to the
3 following —
4 (a) knowledge about —
5 (i) this Act; and
6 (ii) the provisions of the *Community Titles*
7 *Act 2018* and the *Strata Titles Act 1985*,
8 and of any other written law, relevant to
9 the administration of retirement
10 villages;
11 (b) conduct in relation to dealings with current or
12 prospective residents of retirement villages (for
13 example, by reference to standards of honesty,
14 fairness and professionalism);
15 (c) conduct in relation to the marketing of
16 retirement villages (including in relation to the
17 use of terminology).
- 18 (4) Without limiting subsection (2)(c), the regulations may
19 prescribe that an operator or resident may apply to the
20 Tribunal for, and that the Tribunal may make —
21 (a) an order to remedy a contravention of the
22 regulations under subsection (2)(a) or (b); and
23 (b) without limiting paragraph (a), an order
24 requiring an operator to take, or refrain from
25 taking, specified action.
- 26 (5) Subsection (2)(c) does not affect section 82(3).

27 **21B. Financial arrangements and budget obligations**

- 28 (1) The regulations may make provision about the
29 obligations of the operator of a retirement village in
30 relation to the retirement village's budget and financial
31 arrangements.

- 1 (2) Without limiting subsection (1), the regulations may
2 make provision about the following —
- 3 (a) preparation of proposed annual budgets by the
4 operator;
- 5 (b) expenditure of funds in accordance with an
6 annual budget;
- 7 (c) preparation of financial statements and related
8 documents;
- 9 (d) provision of the financial statements and related
10 documents, and other financial information, to
11 residents of the retirement village;
- 12 (e) consultation with residents regarding the
13 content of the annual budget;
- 14 (f) accounting for the expenditure of funds and
15 auditing;
- 16 (g) the provision of information to residents about
17 insurance in relation to the retirement village.
18

19 **21. Section 22 amended**

- 20 (1) Before section 22(1) insert:
21
- 22 (1A) In this section —
23 *terminate*, in relation to a retirement village scheme,
24 includes to suspend, or effectively suspend, the
25 retirement village scheme so that all residents are
26 required to relocate, even if only temporarily, from the
27 residential premises occupied by them.
28

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Part 2 Retirement Villages Act 1992 amended

Division 1 Main amendments

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- 1 (2) In section 22(1) delete “Supreme Court” and insert:
2
3 Tribunal
4
- 5 (3) In section 22(2):
6 (a) delete “The” and insert:
7
8 For the purposes of the *State Administrative Tribunal*
9 *Act 2004* section 36, the
10
11 (b) delete “Supreme Court’s” and insert:
12
13 Tribunal’s
14
- 15 (4) Delete section 22(3) and insert:
16
- 17 (3) The Tribunal must not approve the termination of a
18 retirement village scheme unless the operator —
19 (a) gives each resident a plan relating to
20 termination of the scheme (a *termination*
21 *plan*) —
22 (i) in the approved form; and
23 (ii) containing the prescribed information;
24 and
25 (b) holds a meeting of the residents, at least
26 1 month after giving each resident the
27 termination plan, to answer residents’
28 questions, and provide further information,
29 about the plan; and

- 1 (c) obtains for each resident, or takes all reasonable
2 steps to assist each resident in obtaining,
3 alternative accommodation —
- 4 (i) that is of approximately the same
5 standard as, and requires no greater
6 financial outlay on the part of the
7 resident than, the residential premises
8 occupied by the resident; and
- 9 (ii) that is acceptable to the resident or
10 reasonably ought to be acceptable to the
11 resident.
- 12 (4) If the Tribunal makes an order approving the
13 termination of a retirement village scheme, the
14 Tribunal —
- 15 (a) must fix in the order a date by which each
16 resident must vacate the residential premises
17 occupied by the resident; and
- 18 (b) may make such other orders as the Tribunal
19 thinks fit, including an order that the operator
20 pay to a resident —
- 21 (i) the costs of vacating, or relocating from,
22 the residential premises occupied by the
23 resident; or
- 24 (ii) compensation for the resident’s loss of
25 rights under a residence contract or a
26 service contract.
- 27 (5) The Tribunal’s powers under this section are
28 exercisable only by —
- 29 (a) a judicial member; or
- 30 (b) the Tribunal constituted by a judicial member
31 and other members.
32

1 **22. Sections 23 and 24 deleted**

2 Delete sections 23 and 24.

3 **23. Parts 3A to 3D inserted**

4 After section 25 insert:

5

6 **Part 3A — Leaving a retirement village**

7 **Division 1 — General**

8 **26. Term used: resident**

9 In this Part (and in sections 20 and 21) —
10 *resident* includes former resident.

11 **27. Reinstatement and renovation of residential**
12 **premises**

13 (1) In this section —

14 *capital gain*, in relation to residential premises in a
15 retirement village, means any increase between —

16 (a) the ingoing contribution paid by or on behalf of
17 the resident permanently vacating the premises;
18 and

19 (b) the ingoing contribution paid, or to be paid, by
20 or on behalf of the next resident to occupy the
21 premises;

22 *reinstatement*, of a resident's residential premises in a
23 retirement village, means the return of the premises to
24 the condition required by this section;

25 *renovation*, of a residential premises, means
26 improvement of the premises in excess of what is
27 required for reinstatement.

- 1 (2) A resident must, on permanently vacating residential
2 premises in a retirement village, leave the premises as
3 nearly as possible in the same condition, fair wear and
4 tear excepted, as they were in when the resident
5 entered into occupation of the premises.
- 6 (3) In particular, if the resident accepts, or is taken to
7 accept, a property condition report under section 14D
8 as a true and accurate description of the residential
9 premises, the resident must leave the premises as
10 nearly as possible in the same condition, fair wear and
11 tear excepted, as set out in the report.
- 12 (4) The operator of the retirement village may require the
13 resident to pay for reinstatement of the resident's
14 residential premises only if —
- 15 (a) the resident did not leave the premises in the
16 condition required by this section; and
- 17 (b) the residence contract between the operator and
18 resident includes a term to the effect that the
19 resident must pay for reinstatement of the
20 premises; and
- 21 (c) the cost of the reinstatement has been —
- 22 (i) agreed between the operator and
23 resident; or
- 24 (ii) determined by the Tribunal.
- 25 (5) The operator of the retirement village may require the
26 resident to pay for renovation of the resident's
27 residential premises only if all of the following
28 apply —
- 29 (a) the operator and resident agree on a plan for the
30 renovation (a *renovation plan*) on or after the
31 date the residential premises are permanently
32 vacated;

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- 1 (b) the renovation is in accordance with the
2 renovation plan;
- 3 (c) the residence contract between the operator and
4 resident includes a term to the effect that the
5 resident is entitled to a share of any capital gain
6 that is at least in proportion to the amount of
7 the renovation required by the operator to be
8 paid for by the resident.
- 9 (6) A renovation plan must —
10 (a) be in the approved form; and
11 (b) contain the prescribed information.
- 12 (7) The operator of a retirement village must not demand
13 or receive payment from a resident for reinstatement or
14 renovation of residential premises otherwise than in
15 accordance with this section.
16 Penalty for this subsection: a fine of \$20 000.
- 17 (8) The operator or resident may apply to the Tribunal for,
18 and the Tribunal may make, an order in relation to the
19 amount, if any, that the resident is required to pay for
20 reinstatement or renovation of residential premises
21 under this section.

22 **28. Liability for recurrent charges**

- 23 (1) The liability of a resident to pay recurrent charges
24 arising after the resident has permanently vacated
25 residential premises in a retirement village ends on the
26 earliest of the following —
27 (a) the date on which a new resident becomes
28 liable to pay recurrent charges in respect of the
29 premises;
30 (b) the prescribed date;

- 1 (c) the date on which the operator is required to
2 pay an exit entitlement in relation to the
3 resident under section 29;
- 4 (d) the date on which the operator is required to
5 enter into a contract for, and complete, the
6 purchase of the residential premises under this
7 Part;
- 8 (e) the date agreed between the operator and the
9 resident;
- 10 (f) the date provided for in the residence contract
11 between the operator and resident.
- 12 (2) The operator must not seek to recover from the
13 residents of the retirement village, by increasing the
14 recurrent charges payable by them or by demanding or
15 receiving from them any additional payment, any
16 amount of recurrent charges —
- 17 (a) arising after a resident has permanently vacated
18 residential premises in a retirement village; and
- 19 (b) for which the resident is not liable under this
20 section.

21 Penalty for this subsection: a fine of \$20 000.

22 **Division 2 — Exit entitlements**

23 **29. Payment of exit entitlements**

- 24 (1) An operator must pay an exit entitlement in relation to
25 a resident —
- 26 (a) on or before the earliest of the following —
- 27 (i) the date provided for in the residence
28 contract between the operator and
29 resident;
- 30 (ii) the date that is 7 days after the day on
31 which another person, with the consent

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- 1 of the operator, enters into occupation
2 of the residential premises occupied by
3 the resident following the resident
4 having permanently vacated those
5 residential premises;
- 6 (iii) the date agreed between the operator
7 and resident (or the person to whom the
8 exit entitlement is payable);
- 9 (iv) the date that is 12 months after the day
10 on which the resident has permanently
11 vacated the residential premises
12 occupied by the resident;
- 13 (v) for a residence contract terminated by
14 the Tribunal — the date that is 10 days
15 after the date fixed by the Tribunal as
16 the date by which the resident must
17 vacate the residential premises;
- 18 or
- 19 (b) if the resident grants the operator an extension
20 under subsection (2) —
- 21 (i) the day after the end of the extended
22 period; or
- 23 (ii) if the resident revokes the extension
24 more than 3 months before the end of
25 the extended period — the day after the
26 date that is 3 months after the date of
27 revocation.
- 28 Penalty for this subsection: a fine of \$20 000.
- 29 (2) A resident may, by notice in writing to the operator —
- 30 (a) extend the period within which the operator
31 would otherwise be required to pay an exit
32 entitlement; and

- 1 (b) revoke the extension more than 3 months
2 before the end of the extended period.
- 3 (3) The operator must, at the same time as paying the exit
4 entitlement, give the resident (or the person to whom
5 the exit entitlement is payable) a statement —
- 6 (a) setting out how the operator calculated the exit
7 entitlement; and
- 8 (b) containing any other prescribed information.
- 9 Penalty for this subsection: a fine of \$20 000.
- 10 (4) If an operator calculates, or is required by a residence
11 contract to calculate, an exit entitlement by reference to
12 the ingoing contribution paid, or to be paid, by or on
13 behalf of the next resident to occupy the relevant
14 residential premises, the exit entitlement is to be as
15 agreed or decided under section 37.
- 16 (5) An exit entitlement not paid as required by this section
17 may be recovered as a debt from the operator, for the
18 time being, of the retirement village.
- 19 (6) Subsection (1) does not apply for any period during
20 which the operator has a relevant extension, or an
21 exemption, under Division 4.

22 **30. Resident's payment of recurrent charges from exit**
23 **entitlement**

- 24 (1) A resident may, by written notice to the operator of the
25 retirement village, elect to pay, by way of a deduction
26 from the resident's exit entitlement —
- 27 (a) recurrent charges arising after the resident has
28 permanently vacated residential premises in the
29 village; and
- 30 (b) interest on recurrent charges that, as a result of
31 the election, are not paid by the resident as
32 liability to pay them arises.

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- 1 (2) Unless the relevant residence contract specifies that
2 interest is not payable, the operator may charge the
3 resident the interest at the lowest of the following —
4 (a) the prescribed rate;
5 (b) the rate specified in the contract;
6 (c) the rate agreed between the operator and the
7 resident.
- 8 (3) If a resident elects to pay any recurrent charges under
9 subsection (1), the operator must not demand or receive
10 payment of those charges otherwise than in accordance
11 with that election.

12 Penalty for this subsection: a fine of \$20 000.

13 **31. Operator's payment of exit entitlement for aged**
14 **care**

- 15 (1) The regulations may make provision about payment, at
16 the request of a resident, of some or all of an exit
17 entitlement to a person other than the resident for the
18 purpose of funding the resident's residence, or
19 proposed residence, in an aged care facility.
- 20 (2) Without limiting subsection (1), the regulations may
21 make provision about the following —
22 (a) a resident's entitlement to make a request;
23 (b) how the request may be made and the matters it
24 must address or the information or evidence it
25 must include;
26 (c) an operator's obligation to comply with the
27 request;
28 (d) when and how multiple payments of part an
29 exit entitlement must be made (including in
30 advance of an exit entitlement becoming
31 payable in full under section 29);
32 (e) the persons to whom payments can be made.

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Division 3 — Buybacks

32. Residential premises to which Division applies

- (1) This Division applies only in relation to —
 - (a) residential premises a right to occupation of which is conferred by ownership of shares; or
 - (b) residential premises purchased from the operator subject to a right or option of repurchase; or
 - (c) residential premises purchased subject to conditions restricting the subsequent disposal of the premises; or
 - (d) residential premises prescribed for the purposes of this paragraph.
- (2) In this Division and Division 4, a reference to residential premises is, for residential premises referred to in subsection (1)(a), a reference to the shares that confer the right to occupy the residential premises.

33. Buyback of residential premises that are owned

- (1) The operator of a retirement village must enter into a contract for the purchase of a resident’s residential premises in a retirement village, and complete the purchase, as required by this Division.
Penalty for this subsection: a fine of \$20 000.
- (2) Subsection (1) does not apply —
 - (a) if the residential premises are sold to a person other than the operator before the day on which the operator is required to complete the purchase; or
 - (b) for any period during which the operator has a reasonable excuse.

- 1 (3) Without limiting subsection (2)(b), the operator has a
2 reasonable excuse —
- 3 (a) for any period during which the operator has a
4 relevant extension, or an exemption, under
5 Division 4; and
- 6 (b) for any extended period ordered by the Tribunal
7 under section 44; and
- 8 (c) for any period during which the operator cannot
9 enter into the contract, or complete the
10 purchase, because of an act or omission of the
11 resident.

12 **34. Requirements for buyback**

- 13 (1) The operator must enter into the contract and complete
14 the purchase within the time required under section 35.
- 15 (2) The contract must comply with section 36.
- 16 (3) The purchase price under the contract is the value of
17 the residential premises as agreed or decided under
18 section 37.

19 **35. Timing of purchase**

- 20 (1) The operator must enter into the contract in sufficient
21 time for the purchase to be completed under
22 subsection (2).
- 23 (2) The operator must complete the purchase under the
24 contract on or before the day after the period of
25 12 months beginning on the day on which the resident
26 has permanently vacated the residential premises.

27 **36. Terms of contract**

- 28 (1) The regulations may provide for terms that —
- 29 (a) must be included in the contract (a *required*
30 *term*); or

- 1 (b) must not be included in the contract (a
2 ***prohibited term***).
- 3 (2) The contract must —
- 4 (a) be in the approved form; and
- 5 (b) include each required term; and
- 6 (c) not include any prohibited term; and
- 7 (d) comply with any other prescribed requirements;
- 8 and
- 9 (e) otherwise be in the terms, consistent with this
10 Act, that are —
- 11 (i) agreed between the operator and
12 resident; or
- 13 (ii) determined by the Tribunal.
- 14 (3) The operator or resident may apply to the Tribunal for,
15 and the Tribunal may make, an order determining
16 terms of the contract.

Division 4 — Miscellaneous

37. Valuations — exit entitlements and buybacks

- 19 (1) For the purposes of Divisions 2 and 3, an exit
20 entitlement, or the value of residential premises in a
21 retirement village, is —
- 22 (a) the exit entitlement, or value, agreed between
23 the operator and the resident; or
- 24 (b) if the operator and the resident cannot, within
25 the prescribed time, agree — the exit
26 entitlement, or value, determined by a licensed
27 valuer (as defined in the *Land Valuers*
28 *Licensing Act 1978* section 4) who meets the
29 requirements of this section.

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- 1 (2) The licensed valuer —
- 2 (a) must have appropriate experience or expertise;
- 3 and
- 4 (b) must not have a pecuniary or other interest that
- 5 could be reasonably regarded as capable of
- 6 affecting the licensed valuer’s ability to
- 7 determine, in good faith, the exit entitlement or
- 8 value of the residential premises.
- 9 (3) The licensed valuer must be appointed by —
- 10 (a) agreement between the operator and the
- 11 resident; or
- 12 (b) if the operator and the resident cannot, within
- 13 the prescribed time, agree — by the
- 14 Commissioner.
- 15 (4) The operator or the resident may apply to the Tribunal
- 16 for a review of a decision by the Commissioner to
- 17 appoint a licensed valuer.
- 18 (5) The regulations may make provision in relation to
- 19 valuations for the purposes of this section.
- 20 (6) The operator and the resident are to pay the costs of the
- 21 licensed valuer’s determination in equal shares.
- 22 **38. Extensions — exit entitlements and buybacks**
- 23 (1) The Commissioner may, on application made by an
- 24 operator in the approved form and within the
- 25 prescribed time, extend, by up to 12 months, the period
- 26 within which the operator would otherwise have to
- 27 comply with —
- 28 (a) the requirement to pay an exit entitlement in
- 29 relation to a particular resident under
- 30 Division 2; or

- 1 (b) the requirement to enter into a contract for, and
2 complete, the purchase of residential premises
3 in relation to a particular resident under
4 Division 3.
- 5 (2) The Commissioner —
- 6 (a) must, when granting an extension, specify a
7 later date on or before which the operator must
8 comply with the requirement; and
- 9 (b) may, if satisfied that any condition to which the
10 extension is subject has not been complied
11 with, bring forward the later date by written
12 notice to the operator.
- 13 (3) The operator must comply with the requirement on or
14 before the date so specified or brought forward.
15 Penalty for this subsection: a fine of \$20 000.
- 16 (4) The Commissioner —
- 17 (a) may grant an extension unconditionally or
18 subject to conditions; and
- 19 (b) may, by written notice to the operator, vary the
20 conditions to which an extension is subject.
- 21 (5) Without limitation, the conditions to which an
22 extension may be subject include conditions —
- 23 (a) requiring part payment, or payment in
24 instalments, of an amount in advance of the
25 specified date; and
- 26 (b) requiring payment of interest at the prescribed
27 rate.
- 28 (6) An operator must comply with any condition of an
29 extension.
30 Penalty for this subsection: a fine of \$20 000.

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- 1 (7) The Commissioner may only grant an operator an
2 extension if the Commissioner —
- 3 (a) has not previously granted the operator an
4 extension in respect of the requirement in
5 relation to the particular resident; and
- 6 (b) is satisfied that exceptional circumstances make
7 it unreasonable for the operator to have to
8 comply with the requirement.
- 9 (8) Without limiting the matters the Commissioner may
10 consider in deciding whether to grant an extension, or
11 to impose or vary conditions of an extension, the
12 Commissioner must consider the following —
- 13 (a) the operator’s financial capacity to comply with
14 the requirement;
- 15 (b) the impact, including the financial impact, on
16 residents of the retirement village (and, for a
17 resident who has died, on the beneficiaries of
18 the resident’s estate);
- 19 (c) whether the operator or the particular resident
20 has unreasonably delayed —
- 21 (i) the entry into occupation of the relevant
22 premises by the next resident; or
- 23 (ii) the sale of the premises;
- 24 (d) submissions, if any, made to the Commissioner
25 by the operator or the particular resident;
- 26 (e) any other prescribed matter.
- 27 (9) The operator may apply to the Tribunal for a review of
28 a decision by the Commissioner —
- 29 (a) not to grant an extension; or
30 (b) to impose or vary conditions of an extension; or

- 1 (c) to bring forward the later date on or before
2 which the operator must comply with the
3 requirement.
- 4 (10) The particular resident may apply to the Tribunal for a
5 review of a decision by the Commissioner —
6 (a) to grant an extension; or
7 (b) to impose or vary conditions of an extension.
- 8 **39. Exemptions — exit entitlements and buybacks**
- 9 (1) The Commissioner may, on application made by an
10 operator in the approved form, exempt, for up to
11 5 years, the operator from —
12 (a) any requirement to pay an exit entitlement
13 under Division 2; or
14 (b) any requirement to enter into a contract for, and
15 complete, the purchase of residential premises
16 under Division 3.
- 17 (2) The Commissioner —
18 (a) must, when granting an exemption, specify
19 later dates on or before which the operator must
20 comply with any requirements that would
21 otherwise apply, or have applied, during the
22 period of the exemption; and
23 (b) may, if satisfied that any condition to which the
24 exemption is subject has not been complied
25 with, bring forward a later date by written
26 notice to the operator.
- 27 (3) The operator must comply with the requirements on or
28 before the dates so specified or brought forward.
29 Penalty for this subsection: a fine of \$20 000.

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- 1 (4) The Commissioner —
- 2 (a) may grant an exemption unconditionally or
- 3 subject to conditions; and
- 4 (b) may, by written notice to the operator, vary the
- 5 conditions to which an exemption is subject.
- 6 (5) An operator must comply with any condition of an
- 7 exemption.
- 8 Penalty for this subsection: a fine of \$20 000.
- 9 (6) The Commissioner may only grant an operator an
- 10 exemption if the Commissioner is satisfied that the
- 11 exemption is in the public interest.
- 12 (7) Without limiting the matters the Commissioner may
- 13 consider in deciding whether to grant an exemption, or
- 14 to impose or vary conditions of an exemption, the
- 15 Commissioner must consider the following —
- 16 (a) the number of residential premises in the
- 17 retirement village;
- 18 (b) the nature of the residents' interests in the land
- 19 of the retirement village (for example, as
- 20 owners or lessees);
- 21 (c) whether residents are required to reinstate or
- 22 renovate residential premises;
- 23 (d) whether the operator makes a profit from fees
- 24 or charges payable by residents;
- 25 (e) whether the operator's assets and ability to
- 26 generate income are likely to be sufficient to
- 27 comply with any requirements that would
- 28 otherwise apply during the period of the
- 29 exemption;

- 1 (f) submissions, if any, made to the Commissioner
2 by the operator or residents;
- 3 (g) any other prescribed matter.
- 4 (8) The operator may apply to the Tribunal for a review of
5 a decision by the Commissioner —
- 6 (a) not to grant an exemption; or
7 (b) to impose or vary conditions of an exemption;
8 or
9 (c) to bring forward a later date on or before which
10 the operator must comply with a requirement
11 that would otherwise apply, or have applied,
12 during the period of the exemption.
- 13 (9) A resident may apply to the Tribunal for a review of a
14 decision by the Commissioner —
- 15 (a) to grant an exemption; or
16 (b) to impose or vary conditions of an exemption.
- 17 **40. Resident’s remedies for contraventions of Part**
- 18 (1) A resident may apply to the Tribunal for, and the
19 Tribunal may make, an order requiring an operator to
20 comply with any requirement in this Part.
- 21 (2) The Tribunal’s power to make the order is not affected
22 by —
- 23 (a) the commencement of proceedings against the
24 operator for an offence under this Part; or
25 (b) the conviction of the operator in proceedings
26 for the offence.

Part 3B — Capital items

41. Terms used

In this Part —

capital item —

(a) includes —

- (i) any building or structure in a retirement village; and
- (ii) any plant, machinery or equipment used in the administration of the retirement village; and
- (iii) any part of the infrastructure of the retirement village;

but

(b) does not include —

- (i) anything owned by a resident; or
- (ii) common property as defined by the *Community Titles Act 2018* section 3(1) or the *Strata Titles Act 1985* section 3(1); or
- (iii) the following, but only if provided for the exclusive use of a resident and required under a residence contract to be maintained, repaired or replaced by the resident —
 - (I) fittings;
 - (II) fixtures;
 - (III) contents of residential premises;

- 1 **capital maintenance** —
- 2 (a) means works carried out for the purpose of
- 3 repairing or maintaining a capital item; but
- 4 (b) does not include anything prescribed by the
- 5 regulations;

- 6 **capital replacement** —
- 7 (a) means works carried out for the purpose of
- 8 replacing a capital item; but
- 9 (b) does not include —
- 10 (i) capital maintenance; or
- 11 (ii) anything else prescribed by the
- 12 regulations.

13 **41A. Capital items generally**

- 14 (1) The operator of a retirement village must maintain each
- 15 capital item in the village in a reasonable condition
- 16 having regard to the following —
- 17 (a) the age of the item;
- 18 (b) the prospective life of the item;
- 19 (c) the money paid to the operator by the residents
- 20 under residence contracts and service contracts
- 21 (including ingoing contributions).

22 Penalty for this subsection: a fine of \$20 000.

- 23 (2) The operator may replace a capital item if it is not
- 24 practical to maintain it.

- 25 (3) The operator must carry out capital maintenance, or
- 26 capital replacement, in relation to a capital item within
- 27 a reasonable time after becoming aware of the need for
- 28 the capital maintenance or capital replacement.

29 Penalty for this subsection: a fine of \$20 000.

- 1 (4) A resident must notify the operator of the need for
2 capital maintenance, or capital replacement, in relation
3 to a capital item in the resident's residential premises
4 as soon as the resident becomes aware of the need for
5 the capital maintenance or capital replacement.

6 **41B. Plans for capital maintenance and capital**
7 **replacement**

- 8 (1) The operator of a retirement village must, in
9 accordance with the regulations, prepare, and keep up
10 to date, a plan for capital maintenance and capital
11 replacement.

12 Penalty for this subsection: a fine of \$20 000.

- 13 (2) The regulations may make provision about plans for
14 capital maintenance and capital replacement.

- 15 (3) Without limiting subsection (2), the regulations may
16 make provision about the following —

17 (a) the preparation, content, duration and revision
18 of plans for capital maintenance and capital
19 replacement;

20 (b) notifying, or consulting or engaging with,
21 residents about the matters referred to in
22 paragraph (a);

23 (c) the information to be recorded in plans for
24 capital maintenance and capital replacement,
25 including information concerning any of the
26 following —

27 (i) the costs associated with capital
28 maintenance or capital replacement;

29 (ii) the reasons for decreases or increases in
30 costs associated with capital
31 maintenance or capital replacement;

- 1 (iii) the frequency with which costs are
2 incurred in respect of capital items;
- 3 (d) the capital items for which a plan for capital
4 maintenance and capital replacement must be
5 prepared.
- 6 (4) Subsection (1) does not apply to the operator of a
7 retirement village if there are no capital items in the
8 retirement village.

9 **41C. Capital maintenance**

- 10 (1) The operator of a retirement village must maintain a
11 fund for capital maintenance (a *capital maintenance*
12 *fund*).
- 13 Penalty for this subsection: a fine of \$20 000.
- 14 (2) The operator must ensure the capital maintenance fund
15 is held —
- 16 (a) in an account with an authorised deposit-taking
17 institution; or
- 18 (b) as otherwise prescribed.
- 19 Penalty for this subsection: a fine of \$20 000.
- 20 (3) The operator must ensure the following are paid into
21 the capital maintenance fund —
- 22 (a) any amount of recurrent charges that is, or is
23 required to be, allocated to pay for capital
24 maintenance under a budget prepared for the
25 retirement village (including any budget
26 required under section 21B);
- 27 (b) any other amount a resident is required to pay
28 in connection with capital maintenance;

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- 1 (c) without limitation, any amount that is, or is
2 required by a residence contract between a
3 resident and operator to be —
4 (i) paid by the resident in connection with
5 entering into occupation of, or
6 permanently vacating, residential
7 premises in the retirement village; and
8 (ii) allocated to pay for capital maintenance;
9 (d) any interest received from investment of the
10 fund.

11 Penalty for this subsection: a fine of \$20 000.

- 12 (4) The operator must not use money from the capital
13 maintenance fund otherwise than to pay for capital
14 maintenance.

15 Penalty for this subsection: a fine of \$20 000.

- 16 (5) This section does not apply to the operator of a
17 retirement village if there are no capital items in the
18 retirement village.

19 **41D. Capital replacement**

- 20 (1) The operator of a retirement village must not —
21 (a) use, or set aside, any amount of recurrent
22 charges paid by a resident to pay for capital
23 replacement; or
24 (b) demand or receive from a resident any other fee
25 or charge to pay for capital replacement.

26 Penalty for this subsection: a fine of \$20 000.

- 27 (2) Subsection (1)(b) does not prohibit an operator from
28 demanding or receiving any amount that is required by

- 1 a residence contract between the resident and operator
2 to be —
- 3 (a) paid by the resident in connection with entering
4 into occupation of, or permanently vacating,
5 residential premises in the retirement village;
6 and
7 (b) allocated to pay for capital replacement.

8 **41E. Excessive or insufficient money in capital**
9 **maintenance fund**

- 10 (1) The Commissioner, or the residents of a retirement
11 village, may apply to the Tribunal for, and the Tribunal
12 may make, an order that, having regard to the
13 operator's obligations under section 41A and the
14 content of any plan for capital maintenance and capital
15 replacement under section 41B, the money in the
16 capital maintenance fund referred to in section 41C —
- 17 (a) exceeds what is necessary for capital
18 maintenance; or
19 (b) is insufficient for capital maintenance.
- 20 (2) An order under subsection (1)(a) is to direct that an
21 amount that exceeds what is necessary for capital
22 maintenance is, if paid by (or deriving from money
23 paid by) the residents of the retirement village, to be
24 paid to the residents in the proportion determined by
25 the Tribunal.
- 26 (3) An order under subsection (1)(b) is to direct the
27 operator of the retirement village to ensure that the
28 money in the capital maintenance fund is sufficient for
29 capital maintenance.
- 30 (4) An order under this section may specify —
31 (a) the amount that is excessive or insufficient; and

- 1 (b) a date by which an operator is required to
2 comply with the order; and
3 (c) any other ancillary matter.
- 4 (5) The residents of a retirement village may only make an
5 application under this section if authorised to do so by
6 a special resolution passed at a residents' meeting.

7 **Part 3C — Residents' participation**

8 **41F. Residents' meetings**

- 9 (1) The regulations may make provision about meetings of
10 the residents of a retirement village.
- 11 (2) Without limiting subsection (1), the regulations may
12 make provision about the following —
- 13 (a) the functions of meetings, including the
14 conferral of functions on meetings;
- 15 (b) when meetings may or must be held;
- 16 (c) notice of meetings;
- 17 (d) meeting procedures, including quorum
18 requirements;
- 19 (e) attendance and voting at meetings, including —
- 20 (i) entitlement to attend or vote at
21 meetings; and
- 22 (ii) procedures for voting; and
- 23 (iii) proxies and remote attendance;
- 24 (f) matters or requirements in relation to special
25 resolutions.

26 **41G. Special resolutions**

- 27 (1) To pass a special resolution at a meeting of the
28 residents of a retirement village subsections (2) and (3)
29 must be complied with.

- 1 (2) Firstly, there must be a quorum present (whether in
2 person or by remote communication or by proxy) of —
3 (a) if the retirement village has fewer than
4 10 occupied residential premises — a majority
5 of residents entitled to vote on the resolution; or
6 (b) otherwise, the greater of the following —
7 (i) 5 residents entitled to vote;
8 (ii) 30% of the number of residents entitled
9 to vote.
- 10 (3) Secondly, the resolution must be carried by at least
11 75% of the number of residents who —
12 (a) are present (whether in person or by remote
13 communication or by proxy); and
14 (b) are entitled to vote; and
15 (c) vote on the resolution.

16 **41H. Residents' committee**

- 17 (1) The residents of a retirement village may establish a
18 residents' committee whose function is to consult with
19 the operator on behalf of the residents about —
20 (a) the day-to-day running of the retirement
21 village; and
22 (b) any issues or proposals raised by the residents.
- 23 (2) A residents' committee may be established by an
24 election conducted among the residents of a retirement
25 village.
- 26 (3) In the absence of an election conducted under
27 subsection (2), a residents' committee may be
28 established by an election conducted by the operator on
29 the request of —
30 (a) if the retirement village has fewer than 10
31 occupied residential premises — residents from

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- 1 a majority of the occupied residential premises;
2 or
- 3 (b) otherwise, at least the greater of the
4 following —
- 5 (i) 5 residents;
6 (ii) 10% of the residents.
- 7 (4) Only 1 residents' committee may be established in a
8 retirement village at any time.
- 9 (5) Membership of a residents' committee is available only
10 to the residents of the retirement village in which it is
11 established.
- 12 (6) A residents' committee may be, but is not required to
13 be, an association incorporated under the *Associations*
14 *Incorporation Act 2015*.
- 15 (7) If more than 1 body or committee, regardless of its
16 name, purports to be the residents' committee in a
17 particular retirement village, the operator or a resident
18 of the village, or the Commissioner, may apply to the
19 Tribunal for, and the Tribunal may make, an order
20 determining which body or committee, if any, is the
21 residents' committee for the village.
- 22 (8) A member of the residents' committee —
- 23 (a) holds office for not more than 1 year, but may
24 be re-elected; and
- 25 (b) may be removed at any time by a special
26 resolution.
- 27 (9) Subject to the regulations, the residents' committee
28 may —
- 29 (a) decide its own procedures; and
30 (b) form subcommittees and decide a
31 subcommittee's procedures.

- 1 (10) The regulations may make provision about residents'
2 committees, including the election, functions and
3 procedures of residents' committees and
4 sub-committees.

5 **Part 3D — Modifications of retirement villages**

6 **41I. Terms used: modification and modification plan**

7 In this Part —

8 *modification*, of a retirement village, means the
9 following —

- 10 (a) redevelopment of the land used for the
11 retirement village, including —
- 12 (i) a change to the boundaries of the land
13 (including by subdivision and excision);
14 and
- 15 (ii) the construction, demolition or change
16 of use of a building or structure
17 (including residential premises); and
- 18 (iii) the expansion or reduction of
19 greenspace or parkland;
- 20 (b) a change to the services or amenities that are
21 provided, or made available, to residents by the
22 operator, including by way of the following —
- 23 (i) a reduction or an increase in, or the
24 withdrawal of, the services or amenities;
- 25 (ii) the provision of new services or
26 amenities;
- 27 (c) anything else prescribed as a modification;

28 *modification plan* has the meaning given in
29 section 41N.

1 **41J. Prohibition on modifications**

2 An operator must not carry out a modification of a
3 retirement village.

4 Penalty: a fine of \$20 000.

5 **41K. Exception to prohibition: prescribed modifications**

6 An operator does not commit an offence under
7 section 41J if the modification is —

- 8 (a) of a prescribed kind; or
9 (b) carried out in prescribed circumstances.

10 **41L. Exception to prohibition: disclosed modifications**

11 An operator does not commit an offence under
12 section 41J if the nature and extent of the modification
13 was disclosed to each resident before the resident’s
14 entry into a residence contract with the operator.

15 **41M. Exception to prohibition: non-detrimental
16 modifications**

17 An operator does not commit an offence under
18 section 41J if the modification —

- 19 (a) does not reduce the range or quality of services
20 or amenities provided, or made available, to
21 residents; and
22 (b) does not result in any additional cost to
23 residents.

24 **41N. Exception to prohibition: modifications in
25 accordance with approved modification plans**

- 26 (1) An operator does not commit an offence under
27 section 41J if subsections (2) to (5) are complied with.

- 1 (2) Firstly, the operator must, in accordance with the
2 regulations, give each resident a plan relating to the
3 modification (a *modification plan*) —
4 (a) in the approved form; and
5 (b) containing the prescribed information.
- 6 (3) Secondly, the modification plan must be approved
7 by —
8 (a) a special resolution passed at a residents’
9 meeting; or
10 (b) an order under section 41O(1).
- 11 (4) Thirdly, if the modification plan requires a resident to
12 vacate residential premises in the retirement village —
13 (a) the resident must consent to vacating the
14 residential premises; or
15 (b) the Tribunal must have made an order under
16 section 41O(4) declaring that the resident has
17 unreasonably withheld consent.
- 18 (5) Fourthly, the operator must carry out the modification
19 in accordance with the approved modification plan.
- 20 (6) Regardless of the terms of any residence contract or
21 service contract, an operator does not breach the
22 contract by carrying out the modification
23 if subsections (2) to (5) are complied with.

24 **41O. Tribunal orders relating to modification plans**

- 25 (1) An operator may apply to the Tribunal for, and the
26 Tribunal may make, an order approving a modification
27 plan.

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- 1 (2) The Tribunal must not make an order under
2 subsection (1) unless —
- 3 (a) the modification plan —
- 4 (i) is in the approved form; and
- 5 (ii) contains the prescribed information;
- 6 and
- 7 (b) a special resolution to approve the plan —
- 8 (i) has not been passed at a residents’
9 meeting within the prescribed time; or
- 10 (ii) is voted on at a residents’ meeting but
11 does not pass;
- 12 and
- 13 (c) the Tribunal is satisfied that, in the
14 circumstances of the case —
- 15 (i) the failure to pass the special resolution
16 is unreasonable; or
- 17 (ii) it is otherwise appropriate to make the
18 order.
- 19 (3) The Tribunal may approve a modification plan with
20 any amendments specified in the order (and in that case
21 the approved modification plan is the plan as amended
22 by the order).
- 23 (4) An operator may apply to the Tribunal for, and the
24 Tribunal may make, an order declaring that a resident
25 has unreasonably withheld consent to vacating
26 residential premises in a retirement village as required
27 by a modification plan.
- 28 (5) If the Tribunal makes an order under subsection (4),
29 the Tribunal —
- 30 (a) must fix in the order a date by which the
31 resident must vacate the residential premises
32 occupied by the resident; and

- 1 (b) may make such other orders as the Tribunal
2 thinks fit, including an order that the operator
3 pay to the resident —
4 (i) the costs of vacating, or relocating from,
5 the residential premises occupied by the
6 resident; or
7 (ii) compensation for the resident’s loss of
8 rights under a residence contract or a
9 service contract.

10 **41P. Tribunal orders to remedy operator’s**
11 **contraventions of Part**

12 A resident may apply to the Tribunal for, and the
13 Tribunal may make —

- 14 (a) an order to remedy a contravention of this Part
15 by an operator; and
16 (b) without limiting paragraph (a), an order
17 requiring an operator to take, or refrain from
18 taking, specified action.

19 **41Q. Applications for Tribunal orders**

20 An application for an order under this Part may (but
21 need not) be made and heard concurrently with an
22 application for —

- 23 (a) any other order under this Part; or
24 (b) an order under section 15A.
25

1 **24. Section 41R inserted**

2 At the beginning of Part 4 Division 1 insert:

3

4 **41R. Dispute resolution otherwise than by Tribunal**

- 5 (1) The regulations may make provision about the
6 resolution of disputes —
7 (a) between a resident and the operator of a
8 retirement village; or
9 (b) between residents of a retirement village.
- 10 (2) Without limiting subsection (1), the regulations may
11 establish a procedure that may or must be followed to
12 resolve a dispute.
- 13 (3) The Commissioner may appoint a mediator to resolve a
14 dispute —
15 (a) on the Commissioner’s own initiative; or
16 (b) on application by a party to the dispute.
- 17 (4) The Commissioner may require a party to a dispute to
18 attend the mediation.
- 19 (5) A person must comply with the requirement.
20 Penalty for this subsection: a fine of \$5 000.
- 21 (6) The parties to a dispute must participate in a dispute
22 resolution procedure, or a mediation, in good faith.
- 23 (7) The regulations may make provision about mediations.
24

25 **25. Section 42 deleted**

26 Delete section 42.

1 **26. Section 52 deleted**

2 Delete section 52.

3 **27. Section 57A amended**

4 Delete section 57A(3).

5 **28. Sections 78 and 78A inserted**

6 After section 77 insert:

7

8 **78. Operators to provide Commissioner information for**
9 **register of retirement villages**

- 10 (1) The operator of a retirement village must provide the
11 Commissioner all of the following information in the
12 approved form —
- 13 (a) the name and address of the retirement village;
 - 14 (b) the number of residential premises in the
15 retirement village;
 - 16 (c) whether the residential premises in the
17 retirement village are —
 - 18 (i) occupied in pursuance of a residential
19 tenancy agreement or any other lease or
20 licence; or
 - 21 (ii) occupied under a right conferred by
22 ownership of shares; or
 - 23 (iii) purchased from the operator subject to a
24 right or option of repurchase; or
 - 25 (iv) purchased subject to conditions
26 restricting the subsequent disposal of
27 the premises; or
 - 28 (v) occupied under any other scheme or
29 arrangement prescribed for the purposes

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- 1 of the definition of *retirement village*
2 *scheme* in section 3(1);
- 3 (d) the number of the relevant retirement village
4 memorial;
- 5 (e) the retirement village's current community
6 arrangements statement;
- 7 (f) any other prescribed information.
- 8 (2) The operator must provide the information within
9 14 days after the day of —
- 10 (a) establishment of the retirement village; and
11 (b) any change to the information (or, in the case of
12 a community arrangements statement, any
13 change in the community arrangements of the
14 retirement village).
- 15 Penalty for this subsection: a fine of \$5 000.
- 16 **78A. Commissioner to keep and publish register of**
17 **retirement villages**
- 18 (1) The Commissioner must keep a register of the
19 information provided to the Commissioner under
20 section 78.
- 21 (2) The Commissioner may —
- 22 (a) determine the form in which the register is
23 kept; and
- 24 (b) publish any information in the register in the
25 manner determined by the Commissioner.
- 26 (3) Without limiting subsection (2)(b), the Commissioner
27 may publish, on a website maintained by the
28 Commissioner, community arrangements statements
29 that are provided to the Commissioner.
30

1 **29. Section 79 amended**

2 In section 79 delete the Table and insert:

3

4

Table

s. 6(3)	s. 13(2), (3) and (5)
s. 14A(2)	s. 14B(3), (4) and (5)
s. 14C(3)	s. 14D(1) and (4)
s. 15(1), (4) and (5)	s. 16(1) and (2)
s. 18(2A) and (5)	s. 25(1)
s. 27(7)	s. 28(2)
s. 29(1) and (3)	s. 30(3)
s. 33(1)	s. 38(3) and (6)
s. 39(3) and (5)	s. 41A(1) and (3)
s. 41B(1)	s. 41C(1), (2), (3) and (4)
s. 41D(1)	s. 41J
s. 41N(5)	s. 75F(2)
s. 75H(3) and (5)	s. 75(6)
s. 78(2)	Sch. 1 cl. 15(2)

1 **30. Section 82 amended**

2 After section 82(2)(c) insert:

3

4 (d) advertising or marketing of retirement villages;

5

6 **Division 2 — Other amendments**

7 **31. Act amended**

8 This Division amends the *Retirement Villages Act 1992*.

9 **32. Section 3 amended**

10 (1) In section 3(1) delete “Act, unless the contrary intention
11 appears — ” and insert:

12

13 Act —

14

15 (2) In section 3(1) delete the definition of *administering body*.

16 (3) In section 3(1) insert in alphabetical order:

17

18 *approved form* means the form approved by the
19 Commissioner under section 8(2);

20 *operator*, in relation to a retirement village —

21 (a) means the person by or on behalf of whom the
22 retirement village is administered; and

23 (b) includes a person, other than a resident, who is
24 the owner of land used for the purposes of the
25 retirement village;

26 *Tribunal* means the State Administrative Tribunal;

27

1 (4) In section 3(1) in the definition of *retirement village scheme* or
2 *scheme* delete “or *scheme*”.

3 **33. Section 8 amended**

4 After section 8(1) insert:

5
6 (2) The Commissioner may approve forms for use under
7 this Act.
8

9 **34. Section 9 amended**

10 In section 9(6) delete “Notwithstanding” and insert:

11
12 Despite
13

14 **35. Section 13 amended**

15 In section 13(4) delete “will be” and insert:

16
17 is
18

19 **36. Section 15 amended**

20 (1) In section 15(1) after “for” insert:

21
22 the purposes of
23

24 (2) In section 15(4) delete “retirement village land” and insert:

25
26 land used for the purposes of a retirement village
27

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s. 37

1 (3) In section 15(6) delete “land in” and insert:

2

3 land used for the purposes of

4 (4) In section 15(8) delete “as” and insert:

5

6 for the purposes of

7

8 **37. Section 18 amended**

9 In section 18(4)(b) delete “will be” and insert:

10

11 is

12

13 **38. Section 19 amended**

14 In section 19(6) delete “in” and insert:

15

16 used for the purposes of

17

18 **39. Section 21 amended**

19 (1) In section 21(3) delete “order for the enforcement of” and
20 insert:

21

22 order for enforcement of

23

24 (2) In section 21(4)(b) and (5) delete “order for enforcing” (each
25 occurrence) and insert:

26

27 order for enforcement of

28

1 **40. Section 22 amended**

2 In section 22(2) delete “will be” and insert:

3

4 is

5

6 **41. Section 44 amended**

7 In section 44(1) delete “Notwithstanding” and insert:

8

9 Despite

10

11 **42. Section 57A amended**

12 In section 57A(5) delete “Nothing in this section limits” and
13 insert:

14

15 This section does not limit

16

17 **43. Section 60 amended**

18 In section 60(2) delete “Nothing in this section affects” and
19 insert:

20

21 This section does not affect

22

23 **44. Section 75A amended**

24 In section 75A in the definition of *assets*:

25 (a) delete “in the” (each occurrence) and insert:

26

27 used for the purposes of the

28

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s. 45

1 (b) delete “held” (each occurrence) and insert:

2

3 used

4

5 **45. Section 77C amended**

6 In section 77C(1)(a) delete “form approved by the
7 Commissioner” and insert:

8

9 approved form

10

11 **46. Section 77 amended**

12 In section 77(3) delete “may not” and insert:

13

14 cannot

15

16 **47. Schedule 1 Division 3 inserted**

17 At the end of Schedule 1 insert:

18

19 **Division 3 — Provisions relating to *Retirement Villages***
20 ***Amendment Act 2024***

21 **6. Term used: amending Act**

22 In this Division —

23 ***amending Act*** means the *Retirement Villages Amendment*
24 *Act 2024*.

- 1 **7. Transitional regulations**
- 2 (1) In this clause —
- 3 *publication day*, for transitional regulations, means the day
- 4 on which those regulations are published on the WA
- 5 legislation website;
- 6 *specified* means specified or described in transitional
- 7 regulations;
- 8 *transitional matter* means a matter or issue of a transitional,
- 9 savings or application nature;
- 10 *transitional regulations* means regulations made under
- 11 subclause (2).
- 12 (2) Regulations may prescribe anything required, necessary or
- 13 convenient to be prescribed in relation to a transitional
- 14 matter in connection with the enactment of, or any
- 15 amendment made by, the amending Act.
- 16 (3) Without limiting subclause (2), transitional regulations may
- 17 provide for specified provisions of this Act or another
- 18 written law —
- 19 (a) not to apply to, or in relation to, a specified matter
- 20 or thing; or
- 21 (b) to apply with specified modifications to, or in
- 22 relation to, a specified matter or thing.
- 23 (4) Without limiting subclause (2), transitional regulations may
- 24 provide that an amendment made by the amending Act
- 25 extends to a specified matter or thing that was in existence
- 26 before the amendment comes into operation.
- 27 (5) Without limiting subclause (2), transitional regulations
- 28 may provide —
- 29 (a) that a premium paid before an amendment made by
- 30 the amending Act comes into operation is, on that
- 31 coming into operation, taken to be an ingoing
- 32 contribution; and

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s. 47

- 1 (b) that a premium, or part of a premium, repayable
2 under a contract entered into before an amendment
3 made by the amending Act comes into operation is,
4 on that coming into operation, taken to be an exit
5 entitlement; and
- 6 (c) for any other matter in connection with premiums,
7 ingoing contributions and exit entitlements.
- 8 (6) Without limiting subclause (2), transitional regulations
9 may make provision about the application of an amendment
10 made by the amending Act to persons who had permanently
11 vacated residential premises in a retirement village before
12 the amendment comes into operation.
- 13 (7) If transitional regulations provide that a specified state of
14 affairs is taken to have existed, or not to have existed, on
15 and after a day that is earlier than publication day but not
16 earlier than the day on which the relevant provision of the
17 amending Act came into operation, the regulations have
18 effect according to their terms.
- 19 (8) If transitional regulations contain a provision referred to in
20 subclause (7), the provision does not operate so as to —
- 21 (a) affect in a manner prejudicial to a person (other
22 than the State or an authority of the State) the rights
23 of that person existing before publication day; or
- 24 (b) impose liabilities on a person (other than the State
25 or an authority of the State) in respect of an act
26 done or omission made before publication day.

27 **8. References to administering bodies taken to be**
28 **references to operators**

29 A reference in any of the following to an administering body
30 under this Act is taken to be a reference to an operator —

- 31 (a) a written law, including, in particular —
32 (i) regulations under this Act; and
33 (ii) any applicable code;

- 1 (b) an instrument under a written law;
- 2 (c) any other document (including a contract).

3 **9. Inserted provisions, and regulations under them, extend**
4 **to existing arrangements**

- 5 (1) Section 6(2) does not have effect in relation to a provision
6 of this Act that is inserted by the amending Act (an *inserted*
7 *provision*).
- 8 (2) Accordingly, an inserted provision extends to a retirement
9 village, or a contract, agreement, scheme or arrangement,
10 that was in existence before that provision comes into
11 operation.
- 12 (3) Regulations made under an inserted provision extend to a
13 retirement village, or a contract, agreement, scheme or
14 arrangement, that was in existence before the regulations
15 come into operation.
- 16 (4) This clause applies except to the extent that the regulations
17 provide otherwise.

18 **10. Amendments do not affect existing proceedings**

19 Despite the other provisions of this Division (including, in
20 particular, clause 9), an amendment made to this Act by the
21 amending Act does not apply to proceedings, including
22 criminal proceedings, that were commenced, but not finally
23 determined, before the amendment comes into operation.
24

25 **48. Various references to “administering body” amended**

- 26 (1) In the provisions listed in the Table:
 - 27 (a) delete “administering body” (each occurrence) and
28 insert:
29
30 operator
31

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Division 2 Other amendments

s. 48

- 1 (b) delete “administering body’s” (each occurrence) and
2 insert:
3
4 operator’s
5
6 (c) delete “administering bodies” (each occurrence) and
7 insert:
8
9 operators
10

11 **Table**

s. 3(1) def. of <i>premium</i>	s. 3(1) def. of <i>recurrent charge</i>
s. 3(1) def. of <i>residence rules</i>	s. 3(1) def. of <i>retirement village scheme</i> par. (c)
s. 3(1) def. of <i>service contract</i>	s. 5(2)
s. 8(1)(d)	s. 13(3)
s. 17(2)(b)	s. 18(1) to (5)
s. 19(1), (4) and (6)(b) and (c)	s. 20(5)
s. 21(2)(a)	s. 23(1) def. of <i>permanently vacated</i> par. (a) and (d)
s. 23(5) and (6)	s. 24(2) to (4) and (6)(a), (7) and (9)
s. 25(1)	s. 48
s. 55(2)(a) and (b)	s. 56(3)(a) and (b)

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s. 57A(1)	s. 57(1)(a), (2)(a)(i) and (ii), (4) and (6)(b)
s. 58(1), (2), (3)(b) and (5)	s. 59(1), (2) and (4)
s. 62(1), (2)(b) and (3)	s. 63(1) and (2)(b)
s. 64(1)(b), (2) and (3)	s. 65
s. 67(1) and (2)	s. 68(1)
s. 69(1) to (3)	s. 70(1) to (4)
s. 75A def. of <i>assets</i>	s. 75A def. of <i>functions</i>
s. 75B(1)(a) to (c), (3), (4), (5)(a) to (c) and (7)	s. 75D(1) def. of <i>other persons</i> par. (a) to (c)
s. 75D(2)	s. 75E(1)(b) and (c) and (3)
s. 75F(2) to (5)	s. 75G(1) def. of <i>external administrator</i>
s. 75G(2) and (4)	s. 75H(2) to (5)
s. 75(6)	s. 76(2)(a)
s. 77C(1)(b)(i)	Sch. 1 cl. 3(1)(a)
Sch. 1 cl. 4(2)(a)(i)	

1
2
3

Note: The headings to the amended sections listed in the Table are to read as set out in the Table.

Table

Amended section	Section heading
s. 25	Operator not to require payment in respect of prescribed matters

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s. 49

Amended section	Section heading
s. 48	Reference of certain matters concerning operators
s. 69	Right of operator to compensation if resident abandons premises
s. 75H	Operator to cooperate with statutory manager

1 (2) In the heading to Part 3 delete “**administering bodies**”
2 and insert:

3

4 **operators**

5

6 **49. Various references to gender amended**

7 Amend the provisions listed in the Table as set out in the Table.

8

Table

Provision	Delete	Insert
s. 3(1) def. of <i>resident</i> par. (b)	his or her	that person’s
s. 9(3)(e)	his or her	the party’s or the resident’s
s. 10	his or her	the Commissioner’s
s. 13(6)(b)	representation was to his or her belief a true representation;	person believed the representation was true;
s. 19(5)(b)	his or her	the resident’s
s. 64(3)(a)(ii)	his or her	the resident’s

Provision	Delete	Insert
s. 66(2)	his or her	the person's
s. 75(8)	him or her after the property purchased by him or her has been registered in his or her name, then that person, subject to the tender to him or her	that person after the property purchased by that person has been registered in that person's name, then that person, subject to the tender to that person
s. 75(8)(a)	his or her nominee, are presented to him or her	the former owner's nominee, are presented to that person
s. 75(8)(b)	his or her nominee any relevant certificate of title in his or her possession or under his or her	the former owner's nominee any relevant certificate of title in that person's possession or under that person's
s. 77C(5)	his or her	an

1 **50. Various penalties amended**

2 Amend the provisions listed in the Table as set out in the Table.

3 **Table**

Provision	Delete	Insert
s. 6(3)	Penalty:	Penalty for this subsection: a fine of
s. 11A(1)	Penalty:	Penalty for this subsection: a fine of

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Part 2 Retirement Villages Act 1992 amended

Division 2 Other amendments

s. 50

Provision	Delete	Insert
s. 13(2)	Penalty:	Penalty for this subsection: a fine of
s. 13(3)	Penalty:	Penalty for this subsection: a fine of
s. 13(4A)	Penalty:	Penalty for this subsection:
s. 13(5)	Penalty:	Penalty for this subsection: a fine of
s. 14A(2)	Penalty:	Penalty for this subsection:
s. 15(1)	Penalty:	Penalty for this subsection: a fine of
s. 15(4)	Penalty:	Penalty for this subsection: a fine of
s. 15(5)	Penalty:	Penalty for this subsection: a fine of
s. 16(1)	Penalty:	Penalty for this subsection: a fine of
s. 16(2)	Penalty:	Penalty for this subsection: a fine of
s. 18(2A)	Penalty:	Penalty for this subsection:
s. 18(3)	Penalty:	Penalty for this subsection:
s. 18(5)	Penalty:	Penalty for this subsection:
s. 23(6)	Penalty:	Penalty for this subsection:
s. 24(9)	Penalty:	Penalty for this subsection:
s. 25(1)	Penalty:	Penalty for this subsection:
s. 66(1)	Penalty:	Penalty for this subsection: a fine of

Provision	Delete	Insert
s. 75F(2)	Penalty:	Penalty for this subsection:
s. 75H(3)	Penalty:	Penalty for this subsection:
s. 75H(5)	Penalty:	Penalty for this subsection:
s. 75(6)	Penalty:	Penalty for this subsection: a fine of
s. 76(2)	Penalty:	Penalty for this subsection:
s. 76(4)	Penalty:	Penalty for this subsection:
s. 77B(2)	Penalty:	Penalty for this subsection:
s. 77B(3)	Penalty:	Penalty for this subsection:
s. 77C(5)	Penalty:	Penalty for this subsection:
Sch. 1 cl. 4(5)	Penalty:	Penalty for this subclause:

1 **51. Various references to proceedings amended**

2 Amend the provisions listed in the Table as set out in the Table.

3 **Table**

Provision	Delete	Insert
s. 9(1), (2) and (4)	institute (each occurrence)	commence
s. 9(4)	instituted	commenced
s. 9(5)	instituting	commencing

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Division 2 Other amendments

s. 51

Provision	Delete	Insert
s. 13(6)	any proceedings taken	proceedings
s. 19(6)	will not lie	cannot be commenced
s. 21(2)(a)	brought	commenced
s. 55(2)(b)	proceeding under this section.	proceedings.
s. 56(3)(b)	proceeding under this section.	proceedings.
s. 66(3)	brought	commenced
s. 75B(4)	the proceeding	proceedings
s. 75D(5)	the proceeding	proceedings
s. 76(3) and (5)	any proceeding taken (each occurrence)	proceedings

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2
3

Note: The headings to the sections listed in the Table are to read as set out in the Table.

Table

Amended section	Section heading
s. 9	Commissioner may commence or defend proceedings for party
s. 80	Time for commencing proceedings

1 **52. Various references to “shall” amended**

2 Amend the provisions listed in the Table as set out in the Table.

3 **Table**

Provision	Delete	Insert
s. 6(3)	shall	must
s. 9(2)	shall not shall be	must not is
s. 9(3)(a)	shall, on behalf of the resident of the retirement village, have	has, on behalf of the resident of the retirement village,
s. 9(3)(c)	shall	must
s. 9(3)(d)	shall belong and shall be paid shall be borne	are to is payable are to be borne
s. 9(4) and (5)	shall, in the absence of proof to the contrary, be accepted as (each occurrence)	is, in the absence of proof to the contrary,
s. 9(6)	shall order that the proceedings shall	must order that the proceedings are to
s. 9(7)	shall	are to

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Division 2 Other amendments

s. 52

Provision	Delete	Insert
s. 11(2)	nothing in this section shall relieve	this section does not relieve
s. 12(1) and (2)	shall (each occurrence)	must
s. 13(1) to (3) and (5)	shall (each occurrence)	must
s. 15(1), (3), (4), (7) and (8)	shall (each occurrence)	must
s. 15(2)	shall not	cannot
s. 16(1) and (2)	shall (each occurrence)	must
s. 18(1) and (4)	shall (each occurrence)	must
s. 19(3)	shall	must
s. 52	shall	must
s. 56(4)	shall have	has
s. 57(3)	shall	must
s. 58(4)	shall	must
s. 59(3)	shall	must

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Part 2
Division 2
s. 52

Provision	Delete	Insert
s. 62(2)(a)	shall	must
s. 63(2)(a)	shall	must
s. 65	No proceedings in any shall	Proceedings in a cannot
s. 66(1)	shall	must
s. 68(2)	shall be	is
s. 69(2)	shall	must
s. 75(3)(b)	shall be	are
s. 75(5)	shall	must
s. 75(7)	shall have effect notwithstanding that nothing in this section shall derogate	has effect even if this section does not derogate
s. 75(8)	shall — shall not be	must — is not
s. 83(1) and (2)	shall (each occurrence)	must

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Part 2 Retirement Villages Act 1992 amended

Division 2 Other amendments

s. 53

1 **53. Various references to State Administrative Tribunal**
2 **amended**

3 (1) In the provisions listed in the Table delete “State
4 Administrative” (each occurrence).

5 **Table**

s. 9(3)(c) and (e) and (6)	s. 17(1)(d)
s. 19(2)	s. 44(1)
s. 48	s. 52(1)
s. 54	s. 55(1) to (3)
s. 56(1) to (4)	s. 57A(2) and (4)
s. 57(1) to (4) and (6)	s. 58(1) to (5)
s. 59(1) to (4)	s. 61
s. 62(1) and (2)	s. 63(1) and (2)
s. 64(1) to (3)	s. 66(1)
s. 67(2)	s. 68(1) and (2)
s. 69(3)	s. 70(1) to (4)
s. 75B(1), (5), (6) and (9)	s. 75D(2) and (4)
s. 75E(1) and (2)	s. 75I(1) and (3)
s. 75(4)	

1 Note: The headings to the amended sections listed in the Table are to read as
2 set out in the Table.

3 **Table**

Amended section	Section heading
s. 52	Limits on order by Tribunal
s. 54	Jurisdiction of Tribunal if title to land in question
s. 55	Disputes in relation to residence contracts
s. 61	Tribunal may waive defect in notice of intention to terminate
s. 62	Tribunal may terminate residence contract if resident causes serious damage or injury
s. 63	Tribunal may terminate residence contract if operator would otherwise suffer undue hardship
s. 75B	Tribunal may appoint statutory manager on application of Commissioner
s. 75I	Tribunal may require reports and recommendations from statutory manager

4 (2) In the heading to Part 4 Division 5 delete “**State**
5 **Administrative**”.

6 **54. Various references to “where” amended**

7 In the provisions listed in the Table:

8 (a) delete “Where” (each occurrence) and insert:

9

10 If

11

12 (b) delete “where” (each occurrence) and insert:

13

14 if

15

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Part 2 Retirement Villages Act 1992 amended

Division 2 Other amendments

s. 54

1

Table

s. 13(3) and (4)	s. 15(3) and (7)
s. 19(3) and (3)(a)	s. 48
s. 56(1)	s. 75(8)
s. 77(2)	

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Part 3 — *Duties Act 2008* amended

55. Act amended

This Part amends the *Duties Act 2008*.

56. Section 112 amended

After section 112(5) insert:

(5A) Duty is not chargeable on a transaction required by the *Retirement Villages Act 1992* Part 3A Division 3 or 4.

1 **Part 4 — *Rates and Charges (Rebates and Deferments)***
2 ***Act 1992* amended**

3 **57. Act amended**

4 This Part amends the *Rates and Charges (Rebates and*
5 *Deferments) Act 1992*.

6 **58. Section 29A amended**

7 (1) In section 29A(1) delete the definition of *administering body*.

8 (2) In section 29A(1) insert in alphabetical order:

9
10 *operator*, in relation to a retirement village, has the
11 meaning given to that term in the *Retirement Villages*
12 *Act 1992* section 3(1);
13

14 (3) In section 29A(3) delete “administering body” and insert:

15
16 operator
17

=====